

STATE OF MICHIGAN
DEPARTMENT OF LABOR & ECONOMIC GROWTH
OFFICE OF FINANCIAL AND INSURANCE SERVICES

Before the Commissioner of Financial and Insurance Services

In the matter of

XXXX

Petitioner

File No. 86885-001

v

Blue Cross and Blue Shield of Michigan
Respondent

_____ /

Issued and entered
This 1st day of February 2008
by Ken Ross
Acting Commissioner

ORDER

I
PROCEDURAL BACKGROUND

On January 2, 2008, XXXX, authorized representative of her daughter XXXX (Petitioner), filed a request for external review with the Commissioner of Financial and Insurance Services under the Patient's Right to Independent Review Act, MCL 550.1901 *et seq.* The Commissioner reviewed the request and accepted it on January 9, 2007.

The Petitioner is enrolled for health coverage with Blue Cross and Blue Shield of Michigan (BCBSM) through the Michigan Education Special Services Association (MESSA). The Commissioner notified BCBSM of the external review and requested the information used in making its adverse determination. The Commissioner received BCBSM's response on January 17, 2008.

The issue in this external review can be decided by a contractual analysis. The contract here is the MESSA Choices Group Insurance for School Employees (the certificate). The

Commissioner reviews contractual issues pursuant to MCL 550.1911(7). This matter does not require a medical opinion from an independent review organization.

II FACTUAL BACKGROUND

The Petitioner requested preauthorization for an immunization (Gardasil) for the human papilloma virus (HPV). BCBSM denied coverage for it.

The Petitioner appealed BCBSM's decision not to preauthorize her HPV immunization. BCBSM held a managerial-level conference on December 6, 2007, and issued a final adverse determination dated December 10, 2007.

III ISSUE

Is BCBSM required to cover the Petitioner's HPV immunization?

IV ANALYSIS

Petitioner's Argument

The Petitioner's mother was made aware of the HPV vaccine by her doctor on October 18, 2007, and she would like BCBSM to cover her daughter's HPV immunization. However, three weeks earlier, on September 22, 2007, the Petitioner turned 19 years old and BCBSM will only pay for this vaccine up to age 18.

The Petitioner's mother wants BCBSM to make an exception and cover this vaccine for her daughter because it is recommended for females 9 through 26 years of age.

BCBSM's Argument

In Section VII of the certificate (pages 43-44), under "Preventive Care Services," it explains what BCBSM covers for immunizations:

Well Baby and Child Care Visits and Immunizations

We pay for well baby and child care visits through age 15 as follows:

* * *

Note: We also pay for childhood immunizations as recommended by the Advisory Committee on Immunization Practices and the American Academy of Pediatrics.

Under the terms of the certificate, BCBSM says it pays only for childhood immunizations. Although the maximum age of a “child” under the certificate was raised from 15 to 18 years old on June 6, 2006, the Petitioner was already 19 years old when she learned of the HPV vaccine.

Therefore, BCBSM believes that the Petitioner’s HPV immunization is not a covered benefit under the certificate and it is not required to pay for it.

Commissioner’s Review

The Commissioner is sympathetic to the Petitioner’s situation. As the Petitioner’s mother points out, the HPV immunization is recommended by the Centers for Disease Control and Prevention for girls and women 13 to 26 years of age. The recommended child and adolescent immunization schedule of the Advisory Committee on Immunization Practices says:

The HPV vaccine is routinely recommended for girls 11 and 12 years of age and is given in a series of three injections over a six-month period. The second and third doses should be given two and six months (respectively) after the first dose.

The vaccine is also recommended for girls and women 13 through 26 years of age who did not receive it when they were younger. HPV vaccine may be given at the same time as other vaccines.¹

However, the certificate defines what benefits are covered. It explains that BCBSM pays for “childhood immunizations,” which the amended certificate defines as those administered through age 18. The Petitioner was 19 years old and beyond childhood when she learned of the HPV vaccine. Therefore the Commissioner finds that if the Petitioner were to receive the HPV vaccination, it would not be a covered benefit under her certificate.

¹ <http://www.cdc.gov/vaccines/vpd-vac/hpv/default.htm>

**V
ORDER**

BCBSM's final adverse determination of December 10, 2007, is upheld. BCBSM is not required to authorize or cover a HPV immunization for the Petitioner.

This is a final decision of an administrative agency. Under MCL 550.1915, any person aggrieved by this Order may seek judicial review no later than sixty days from the date of this Order in the circuit court for the county where the covered person resides or in the Circuit Court of Ingham County. A copy of the petition for judicial review should be sent to the Commissioner of the Office of Financial and Insurance Services, Health Plans Division, Post Office Box 30220, Lansing, MI 48909-7720.